

September 8, 2023

The Cheesecake Factory Restaurants, Inc.
Attn: Legal Counsel
7612 Blake Street
Liberty Township, OH 45069
Via Certified Mail: 7017 0660 0000 8713 0572

Dear Counselor:

I have been retained by Molly Noga regarding her potential claims related to her employment with The Cheesecake Factory Restaurants, Inc. Please refrain from discussing this matter with my client and direct all future correspondence to my attention.

Payroll Record Request

Please consider this letter a request that you provide to me on Ms. Noga's behalf a complete copy of the records that The Cheesecake Factory Restaurants, Inc. is legally required to maintain for employees relating specifically to Ms. Noga under the Ohio Constitution Art. II, § 34a., which specifically provides that:

An employer shall maintain the record of the name, address, occupation, pay rate, hours worked for each day and each amount paid an employee for a period of not less than three years following the last date the employee was employed. Such information shall be provided without charge to an employee or person acting on behalf of an employee upon request.

This provision as well as related sections of Ohio law (particularly R.C. 4111.08 and 4111.10) provide that an employee such as Ms. Noga is entitled to obtain a complete copy of all the required records at no cost. Further provision is made under applicable law for a claim in favor of the aggrieved employee for failure to keep and/or provide these records.

Accordingly, your immediate attention to this request and provision of complete, true, and accurate statements detailing Ms. Noga's pay history with The Cheesecake Factory Restaurants, Inc. is demanded within the time designated by law. A notarized authorization executed by Ms. Noga to turn those records over to me is enclosed herein.

Duty to Preserve

As you are aware, the nature of Ms. Noga's claims and the potential for litigation relating thereto necessarily attaches a high degree of significance, materiality and relevance to the preservation of all records, electronic and otherwise, relating to the personnel, facility, communications, records, electronic mail, and systems involved in Ms. Noga's employment.

Please further understand that The Cheesecake Factory Restaurants, Inc. must affirmatively ensure that all relevant evidence is preserved. "Spoliation is the destruction or significant alteration of evidence, or the failure to preserve property for another's use as evidence, in pending or future litigation." See e.g. *Reinhart v. Howard Johnson Co. Inc.* (1993), 67 Ohio St 3d 28.

Any failure to fulfill applicable obligations to preserve evidence can result in severe sanctions. See e.g. *Loukinas v. Roto-Rooters Serv. Co.*, 2006-Ohio-3172, 167 Ohio App. 3d 559, 569 ("Even prior to the commencement of any litigation, a [party] is under a duty to preserve evidence which it knows or reasonably should know is relevant to the action.").

As we are confident you are aware, the duty to preserve potentially discoverable evidence is broad and extends not just to directly relevant information but to the full bounds of discoverability under the applicable rules, which includes information that might reasonably lead to the discovery of relevant evidence. As such, it is incumbent upon The Cheesecake Factory Restaurants, Inc., its agents, employees, subsidiaries, divisions and affiliates, and their respective officers, directors, agents, attorneys, accountants, employees, partners and all other persons occupying similar positions or performing similar functions to reserve all documents, tangible things and electronically stored information (in native format to the full extent presently possible) potentially relevant to the issues in this matter or which might reasonably lead to the discovery of relevant information.

You should anticipate that much of the information subject to disclosure or responsive to discovery in this potential litigation is stored on your current and former computer systems and other media and devices (including without limitation mainframe systems, network drives, servers, back-up tapes, swappable hard drive back-ups, remote back-ups, local hard drives, laptops, external media such as flash drives, external hard drives, optical disks, personal digital assistants, voice messaging systems, online repositories and cell phones).

Electronically stored information should be afforded the broadest possible meaning and includes but is not limited to information stored electronically, magnetically, optically or otherwise stored as emails, voicemails, instant messages, recordings, notes, databases and archived files.

In accordance with your organization's obligation to preserve such information, you are required to take affirmative steps to guard against the deletion of such information including through routine or established document management systems. This request also includes all security and/or surveillance cameras.

Should you believe other parties, businesses or entities are responsible for the location where the accident occurred, we ask that you promptly bring those responsible to our attention.

Further, I am enclosing a copy of an EEOC Form 5 that has been filed on Ms. Noga's behalf. I imagine the EEOC will also send you a copy through its channels.

Thank you in advance for your cooperation. Should you wish to discuss this matter, please do not hesitate to contact the undersigned. I can be reached at 513-500-8511 or rss@stokarlaw.com.

Sincerely,

STOKAR LAW, LLC

A handwritten signature in black ink, appearing to read 'Robb S. Stokar', with a long horizontal line extending to the right.

Robb S. Stokar

Enclosure

EEOC Form 5 (11/09)

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To:

Agency(ies) Charge No(s):

☐ FEPA☒ EEOC**OHIO CIVIL RIGHTS COMMISSION**

and EEOC

State or local Agency, if any

Name (indicate Mr. Ms. Mrs.)

Home Phone (Incl. Area Code)

Date of Birth

Ms. Molly Noga (molly.noga@gmail.com)

-2442

Street Address

City, State and ZIP Code

c/o Stokar Law, LLC 404 E. 12th St. First Floor Cincinnati, OH 45202

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

No. Employees, Members

Phone No. (Incl. Area Code)

The Cheesecake Factory Restaurants, Inc.

50+

513-755-2761

Street Address

City, State and ZIP Code

7612 Blake Street Liberty Township, OH 45069

Name

No. Employees, Members

Phone No. (Incl. Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)

☐ RACE☐ COLOR☒ SEX☐ RELIGION☐ NATIONAL ORIGIN☐ RETALIATION☐ AGE☐ DISABILITY☐ GENETIC INFORMATION☒ OTHER (SEXUAL HARASSMENT)

DATE(S) DISCRIMINATION TOOK PLACE

Earliest:

Latest:

June 2023

☐ CONTINUING ACTION

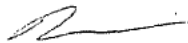
THE PARTICULARS ARE (If additional paper is needed, attached extra sheet(s)):

1. I am an adult female citizen of Ohio.
2. In or about August 2021, I was hired by Respondent restaurant as a server.
3. At all times relevant, I met my employer's legitimate performance expectations.
4. During my employment with Respondent, I was sexually harassed on multiple occasions.
5. Respondent's kitchen manager Luis [LNU] made sexually suggestive comments, propositioned me for sexual activities, and touched my body without my consent.
6. I told Luis on multiple occasions I had no romantic feelings for him.
7. I made complaints to upper management about Luis' conduct.
8. During my employment with Respondent, I was also sexually harassed by Axel [LNU], a kitchen employee at Respondent.

9. Axel would make sexually suggestive comments, propositioned me to engage in intimate activities, and touched my body without my consent.
10. I informed Axel that I had no desire to engage in intimate and/or sexual activities with him.
11. I also complained to management, both orally and in writing, about Axel's sexual harassment of me.
12. Management did not protect me from Axel, did not assign Axel duties away from me, did not terminate Axel, nor take any other action to protect me from Axel's sexual harassment.
13. Because my job as a server involved interaction with the kitchen staff, I was forced to interact with Axel about customer food orders, and his sexual harassment of me would continue during those interactions.
14. The sexual harassment I encountered from both Luis and Axel was sufficiently severe and pervasive enough that it altered the terms and conditions of my employment.
15. In or about June 2023, I was constructively discharged from Respondent because the sexual harassment was so severe and/or pervasive that it altered the terms and conditions of my employment and created an abusive working environment.
16. I request all available relief, including but not limited to, compensatory damages, punitive damages and attorneys' fees.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

x



NOTARY — When necessary for State and Local Agency Requirements



I declare under penalty of perjury that the above is true and correct.

9-8-23

Date

Charging Party's Signature



I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT



SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE

Robb Sheldahl, Notary Public - State of Ohio

My commission has no expiration date

Sec. 147.05 R.C.

9-8-23




The Cheesecake Factory Restaurants, Inc.
Attn: Legal Counsel
7612 Blake Street
Liberty Township, OH 45069

VIA CERTIFIED MAIL: 7017 0660 0000 8713 0572

Dear Counsel:

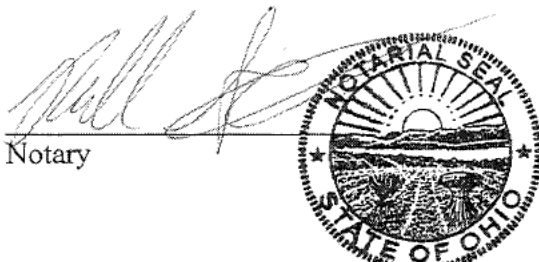
Pursuant to R.C. 4111.14 *et. seq.*, I am requesting the following information: The records of my occupation, pay rate, hours worked for each day worked, and each amount I have been paid for not less than three years following the last date I was employed by The Cheesecake Factory Restaurants, Inc. Please release my records to my legal counsel: Robb Stokar (rss@stokarlaw.com), Stokar Law, LLC 404 E. 12th St. First Floor Cincinnati, OH 45202.


Molly Noga

9-8-23
Date

State of Ohio)
)ss:
County of Hamilton)

On this 8th day of September 2023, Molly Noga, after having been duly cautioned and sworn, and having been properly identified or otherwise known to me, did hereunto subscribe his name before me, a Notary in and for the state of Ohio.



Robb Stokar, Attorney At Law
NOTARY PUBLIC - STATE OF OHIO
My commission has no expiration date
Sec. 147.03 R.C.

Does Not Expire
My Commission Expires